



MPEP 711.03(c) III. states in relevant part:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdrawn the holding of abandonment. If adequately supported, the Office may grant the petition to withdrawn the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

Accompanying this petition are:

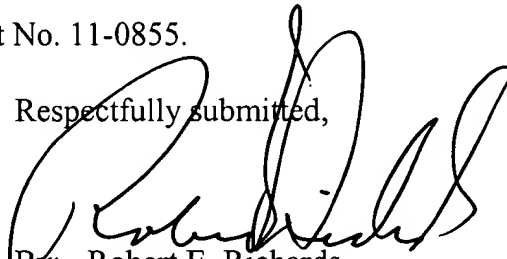
- (1) Payment of the Issue Fee;
- (2) A statement that the Notice of Allowance was not received and that a thorough search of our file jacket and docket records was performed;
- (3) A copy of our internal docket record sheet indicating non-receipt of the Notice of Allowance;
- (4) A Substitute Terminal Disclaimer under 37 CFR 1.137(d) showing the correct name of the Assignee; and
- (5) A Petition to Accept Unintentionally Delayed Priority Claim.

**STATEMENT OF NON-RECEIPT OF OFFICE COMMUNICATION**

The Notice of Allowance mailed October 17, 2003 was not received and a search of our file jacket and docket records also indicate that this office communication was not received. Attached to this petition is a copy of our internal docket record as of December 30, 2003 that does not list receipt of the Notice of Allowance mailed October 17, 2003. This record lists filing of a Declaration on December 18, 2003 after the date that the Notice of Allowance would have been received. This document supports the allegation that a Notice of Allowance was not received from the U.S. Patent and Trademark Office

It is believed that no additional fees are required; however, should an additional fee be required, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



By: Robert E. Richards  
Reg. No. 29,105

May 21, 2004

KILPATRICK STOCKTON LLP  
1100 Peachtree Street  
Suite 2800  
Atlanta, Georgia 30309  
Our Docket: 05213-0493 (43170-253692)



Kilpatrick Stockton LLP  
Country Application  
As of April 01, 2004

Case Number: 253692 Country: United States of America Sub Case 25369  
2  
Case Type: RCE Attorney(s): JLG SSK LSP CNS  
Title: ESTROGENIC COMPOUNDS AS ANTI-MITOTIC AGENTS  
Owner: ENTREMED, INC.  
Client: 43170 ENTREMED, INC. Ref.# 05213-0493  
Agent: Ref.#  
Filing Date: 12-Feb-2001 Status: PENDING  
Application No: 09/780650 Priority Date: 09-Nov-1999  
Publication Date: Issue Date:  
Publication No: Patent No.:  
Expiration Date:  
Tax Start Date Tarif: LE  
Keyword(s): G.A.U.# 1633, 1616  
Modification Date: 14-Aug-2003

Abstract:

Invention Remarks:

RELATED CASES: CONTINUATION OF 09/463610 (11/09/99) WHICH IS A CONTINUATION OF 09/243158 (02/02/99)  
\*REQUEST TO CORRECT UPDATED FILING RECEIPT FILED 09/12/2001  
\*EXAMINER: BARBARA P. BADIO  
\*CONFIRMATION NO. 2466  
\*RECEIVED OA. RESPONSE DATE FROM DEBBIE ROBTON'S E-MAIL OF 10/1/2002  
\*LETTER MAILED 9/30/2002: STATED THAT IN ACCORDANCE WITH THE 9/4/2002 REQUEST, THE STATUS AS A SMALL ENTITY HAS BEEN REMOVED  
\*APPOINTMENT OF ASSOCIATE ATTORNEY FILED 08/30/2002  
\*NOTIFICATION OF LOSS OF SMALL ENTITY STATUS FILED 08/30/2002  
\*CONTINUATION APPLICATION FILED 10/25/2002 (279683)  
\*REQUEST FOR CONTINUED EXAMINATION FILED 07/28/2003 (253692)  
\*SUBMISSION OF ART FILED 07/18/2003  
\*NOTICE OF NEW OR REVISED PROJECTED PUBLICATION DATE MAILED 9/11/2003; STATED THAT THE CURRENT PROJECTED PUBLICATION DATE IS 12/18/2003  
\*DECLARATION OF INVENTOR ROBERT J. D'AMATO UNDER 37 CFR 1.131 FILED 12/18/2003

Remarks:

Actions:

Action Due	Due Date	Indicator	Action Taken	Response Sent
FORMAL FILING RECEIPT REC'D.	27-Mar-2001	Final	<input checked="" type="checkbox"/>	
CLAIM PRIORITY REMINDER	12-May-2001	Reminder	<input checked="" type="checkbox"/>	

Kilpatrick Stockton LLP

Country Application

As of April 01, 2004

UPDATED FIL. RECEIPT REC'D	08-Jun-2001	Final	<input checked="" type="checkbox"/>	
CLAIM PRIORITY DEADLINE	12-Jun-2001	Final	<input checked="" type="checkbox"/>	
PRELIMINARY AMENDMENT FILED	28-Feb-2002	Final	<input checked="" type="checkbox"/>	
RESP. REST. REQ. (1 MTH DUE)	28-Feb-2002	Due Date	<input checked="" type="checkbox"/>	28-Feb-2002
RESP. REST. REQ. W/1 MTH. EXT.	28-Mar-2002	Due Date	<input checked="" type="checkbox"/>	28-Feb-2002
RESP. REST. REQ. W/2 MTH. EXT.	28-Apr-2002	Due Date	<input checked="" type="checkbox"/>	28-Feb-2002
2ND PRELIM. AMEND. FILED	23-May-2002	Final	<input checked="" type="checkbox"/>	
RESP. REST. REQ. W/3 MTH. EXT.	28-May-2002	Due Date	<input checked="" type="checkbox"/>	28-Feb-2002
RESP. REST. REQ. W/4 MTH. EXT.	28-Jun-2002	Due Date	<input checked="" type="checkbox"/>	28-Feb-2002
INFORMATION DISCL. STMT.	12-Jul-2002	Due Date	<input checked="" type="checkbox"/>	13-Jun-2002
RESP. REST. REQ. (DEADLINE)	28-Jul-2002	Final	<input checked="" type="checkbox"/>	28-Feb-2002
RESPONSE REMINDER	30-Jul-2002	Reminder	<input checked="" type="checkbox"/>	30-Aug-2002
RESPONSE DUE (3 MTH.)	30-Aug-2002	Due Date	<input checked="" type="checkbox"/>	30-Aug-2002
RESPONSE DUE W/1 MTH. EXT.	30-Sep-2002	Due Date	<input checked="" type="checkbox"/>	30-Aug-2002
RESPONSE DUE W/2 MTH. EXT.	30-Oct-2002	Due Date	<input checked="" type="checkbox"/>	30-Aug-2002
RESPONSE (DEADLINE) W/3 MTH. EX	30-Nov-2002	Final	<input checked="" type="checkbox"/>	30-Aug-2002
RESP. FINAL REJ. REMINDER	27-Mar-2003	Reminder	<input checked="" type="checkbox"/>	28-Jul-2003
NOTICE OF APPEAL DUE	27-Apr-2003	Due Date	<input checked="" type="checkbox"/>	
RESP. FINAL REJ. DUE (3 MTH.)	27-Apr-2003	Due Date	<input checked="" type="checkbox"/>	28-Jul-2003
NOTICE OF APPEAL DUE W/1 MTH E	27-May-2003	Due Date	<input checked="" type="checkbox"/>	
RESP. FINAL REJ. W/1 MTH. EXT.	27-May-2003	Due Date	<input checked="" type="checkbox"/>	28-Jul-2003
NOTICE OF APPEAL DUE W/2 MTH E	27-Jun-2003	Due Date	<input checked="" type="checkbox"/>	
RESP. FINAL REJ. W/2 MTH. EXT.	27-Jun-2003	Due Date	<input checked="" type="checkbox"/>	28-Jul-2003
NOTICE OF APPEAL (DEADLINE)	27-Jul-2003	Final	<input checked="" type="checkbox"/>	
RESP. FINAL REJ. W/3 MTH. EXT.	27-Jul-2003	Final	<input checked="" type="checkbox"/>	28-Jul-2003
DECLARATION FILED	18-Dec-2003	Final	<input checked="" type="checkbox"/>	
SUPPLEMENTAL IDS FILED	01-Apr-2004	Final	<input checked="" type="checkbox"/>	✓



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
)  
**D'AMATO ET AL.** )  
) **Examiner: Badio, B.**  
Serial No.: **09/780,650** )  
) **Art Unit: 1616**  
Filed: **February 12, 2001** )  
)  
For: **ESTROGENIC COMPOUNDS** )  
**AS ANTI-MITOTIC AGENTS** )

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**PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF  
PRORITY OF U.S. PATENT APPLICATION NO. 09/780,650  
PURSUANT TO 37 C.F.R. § 1.78(a)(3)**

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Mailstop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants respectfully petition for the acceptance of an amended claim of priority of the above-mentioned U.S. Patent Application, Serial No. 09/780,650, filed February 12, 2001. The claim of priority should read as follows: application Serial No. 09/780,650, filed February 12, 2001 is a continuation of application Serial No. 09/436,610, now abandoned, which is a continuation of application Serial No. 09/243,158 filed February 2, 1999, now U.S. Pat. No. 6,528,676, which is a continuation of application Serial No. 08/838,699, filed April 25, 1997, now U.S. Pat. No. 5,892,069, which is a continuation of application No.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mailstop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 21, 2004.

  
Robert R. Richards - 29,105

05/27/2004 EFL0RES 00000093 09780650 1330.00 0P  
01 FC:1454

08/571,265, filed December 12, 1995, now U.S. Pat. No. 5,661,143, which is a continuation of application Serial No. 08/102,767, filed August 6, 1993, now U.S. Pat. No. 5,504,074.

Applicants respectfully request that specification of the present application also be amended to include as the first paragraph on page 1 of the specification the following:

CROSS-REFERENCE TO RELATED APPLICATIONS

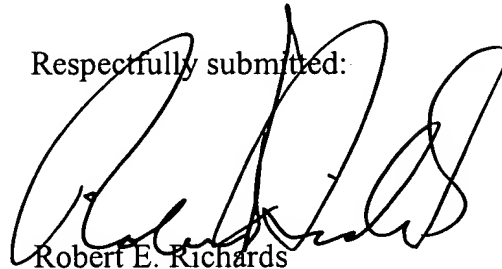
The present application is a continuation of application Serial No. 09/436,610, now abandoned, which is a continuation of application Serial No. 09/243,158 filed February 2, 1999, now U.S. Pat. No. 6,528,676, which is a continuation of application Serial No. 08/838,699, filed April 25, 1997, now U.S. Pat. No. 5,892,069, which is a continuation of application No. 08/571,265, filed December 12, 1995, now U.S. Pat. No. 5,661,143, which is a continuation of application Serial No. 08/102,767, filed August 6, 1993, now U.S. Pat. No. 5,504,074.

**STATEMENT OF UNINTENTIONAL DELAY OF PRIORITY CLAIM**

The entire delay between the date the claim of priority was due; *i.e.*, June 12, 2001, and the date this claim was filed was unintentional. This statement is made by the undersigned agent registered to practice before the Patent and Trademark Office, and a verified statement is therefore not required.

As required by 37 C.F.R. § 1.78(a)(3), the requisite Processing fee under 37 CFR 1.17(t) in the amount of \$1,330.00 is included.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'Robert E. Richards', is written over the typed name.

Robert E. Richards

Reg. No. 29,105

May 21, 2004

Kilpatrick Stockton, LLP  
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1100 Peachtree St.  
Atlanta, GA 30309-4530  
(404) 815-6500  
Our Docket: 05213-0493 (43170-253692)